

FLORIDA'S CHILD SUPPORT BENCHBOOK

INCOME WITHHOLDING FORM OVERVIEW

Non-Title IV-D cases:

To be compliant with State and Federal law, four forms -- 12.996(a), 12.996(b), 12.996(d), and Federal Form OMB 0970-0154 -- should be used when the court has ordered support payments by income deduction.

- Form 12.996(a) - the State Income Deduction Order should be used for income deduction in non-Title IV-D cases. §61.1301(1)(a), Florida Statutes.
- When 12.996(a) is used, Florida Form 12.996(b), Notice to Payor, must also be used and sent to the employer along with the Income Deduction Order to take effect.
- 42. U.S.C. §666(b)(6)(A)(ii) requires income withholding orders to be in a standard format. The federally approved income withholding form "Income Withholding for Support," OMB 0970-0154, became effective May 31, 2012, and must be used in all withholding cases, both Title IV-D and non-Title IV-D. It can be found at the following address:
http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154.pdf.
- The Florida Supreme Court adopted new form 12.996(d), Florida Family Law Rules of Procedure, entitled Florida Addendum to Income Withholding Order, to be used with Federal Form OMB 0970-0154 whenever a trial court has ordered that support be paid by income deduction. The purpose of the addendum is to provide provisions required under Florida law which are not included on the federal form. Chief among these requirements is a schedule for the reduction and termination of child support as the obligation for each minor child ceases. The new Florida form, effective on its adoption, June 28th, 2012, should be attached to the federal form and filed with the clerk of the circuit court.
<http://flcourts.org/core/fileparse.php/293/urlt/996d.pdf>

Title IV-D cases:

According to the Department of Revenue, a State Income Deduction Order, form 12.996(a), is currently not entered in all IV-D child support cases, and a uniform practice as to whether it should or

should not be used has not been established. Some hearing officers use the Federal OMB 0970-0154 form as a “notice” form rather than as an order, then enter form 12.996(a) as the underlying order and 12.996(d) as the Florida addendum to the Federal OMB form; while other hearing officers use the Federal OMB 0970-0154 as an “order” and attach form 12.996(d) to the Federal OMB 0970-0154 form to act as the underlying State income deduction order to include provisions authorizing income withholding applicable to Florida.

According to §61.1301(1)(a), Florida Statutes, the court shall enter a separate “*order for income deduction*” upon the entry of an order establishing, enforcing, or modifying an obligation for support, whether it be alimony, child support, or both. If an employer receives a Federal OMB 0970-0154 from an attorney or private individual, a copy of the underlying state order containing the provision authorizing income deduction in Florida must be attached. See Income Withholding for Support - Instructions, http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154_instructions.pdf. Thus, the best practice in IV-D cases seems to hinge on whether the Federal OMB 0970-0154 form is used as an “order” or merely a “notice” form. If it is used as a “notice” form, similar to the promising practice in non IV-D cases, it seems a promising practice in IV-D cases would include the use of the State Forms -- 12.996(a), 12.996(b), and 12.996(d) -- with the Federal Form OMB 0970-0154. If it is used as an “order” it is imperative that the Federal Form is signed and entered as an order and that the Florida Addendum 12.996(d) is attached and thoroughly completed.

- 42. U.S.C. §666(b)(6)(A)(ii) requires income withholding orders to be in a standard format. The federally approved income withholding form “Income Withholding for Support,” OMB 0970-0154, became effective May 31, 2012, and must be used in all withholding cases, both Title IV-D and non-Title IV-D. It can be found here: http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154.pdf
- The Florida Supreme Court adopted new form 12.996(d), Florida Family Law Rules of Procedure, entitled Florida Addendum to Income Withholding Order, to be used with Federal Form OMB 0970-0154 whenever a trial court has ordered that support be paid by income deduction. The purpose of the addendum is to provide provisions required under Florida law which are not included on the

federal form. Chief among these requirements is a schedule for the reduction and termination of child support as the obligation for each minor child ceases. The new Florida form, effective on its adoption, June 28th, 2012, should be attached to the federal form and filed with the clerk of the circuit court.
<http://flcourts.org/core/fileparse.php/293/urlt/996d.pdf>

All Withholding Cases: (Both Non-Title IV-D & Title IV-D Cases)

- According to the Federal Income Withholding for Support Form, OMB 0970-0154, effective May 31, 2012:
 - Employers are required to reject any order withholding income if:
 - it is not on the approved Federal OMB 0970-0154 form;
 - the Federal OMB 0970-0154 form instructs the employer to send a payment to an entity other than a State Disbursement Unit (SDU);
 - the Federal OMB 0970-0154 form does not contain all information necessary for the employer to comply with the withholding;
 - the Federal OMB 0907-0154 form is altered or contains invalid information;
 - the amount to be withheld is not a dollar amount; or
 - a copy of the underlying state order is required and not included. (If the employer receives a Federal Income Withholding for Support form, OMB 0970-0154, from an attorney or private individual, a copy of the underlying state order containing the provision authorizing income deduction in Florida must be attached.) (See Income Withholding for Support - Instructions, http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154_instructions.pdf)
- The Federal OMB 0970-0154 form MUST be used in both IV-D and non IV-D cases. (See ACF Flyer - http://www.acf.hhs.gov/sites/default/files/ocse/at_11_05c.pdf.)
- **Why does form 12.996(d) -- Florida Addendum to the Federal Income Withholding for Support Form -- have to be used with the Federal OMB 0970-0154 form in all Support Cases?**

- The new Federal OMB 0970-0154 form does not contain information that is statutorily required in Florida to be included in all income deduction orders. (For example, §§61.13(1)(a)1, 61.1301(1)(b)5, Florida Statutes.) Thus, the Florida Supreme Court adopted the Florida Addendum, form 12.996(d), to be attached to the Federal OMB 0970-0154 form and include the provisions required in Florida.
- The statutorily required information could not be inserted into the IWO because the federal form cannot be altered. If the form is altered, or if the correct form is not used, the instructions require employers to reject the IWO.

Promising Practices:

- Not including a specific employer on the Federal OMB 0907-0154 form may eliminate the need for the judge to sign a new order any time a payor changes employment. Instead, rather than indicating a specific employer, you may choose to state: “all present and subsequent employers.” *This language is similar to what is currently included in Form 12.996(a) Income Deduction Order* and paragraph one of the Florida Addendum 12.996(a). Doing so would maintain the form’s applicability to current and subsequent employers, without having to be amended. The employee can send a copy of all applicable forms -- 12.996(a), Federal OMB 0970-0154, and 12.996(d) -- in his/her file to the new employer along with a newly completed form 12.996(b) Notice to Payor without needing to request that court amend the underlying order -- 12.996(a) or Federal OMB 0970-0154 if it is used as an order.
 - Note: If the court prefers to list a particular employer, the parties or their attorneys have the burden to provide the information that is required to complete the Federal OMB form, including the FEIN number, if available. The W-2 forms of the employee should include the FEIN, which can also be found in the annual reports of a business.
 - If the payor changes employers or the deduction amount changes in a Title IV-D case, the Department of Revenue will issue a new Federal OMB form with the new employer and/or amount listed.
- The Federal OMB form is maintained in the court file as any other pleading and steps should be taken to comply with Fla. R. Jud. Admin., Rule 2.425 - Minimization of the Filing of Sensitive Information, which protects sensitive information. When a document is filed by e-filing or paper filing, the Clerk’s office should use a program which identifies and redacts the Social Security numbers so that the information is not

available for online viewers. If an individual wishes to physically inspect the file, the Clerk's office should prepare a file with redacted hard copies.

- Under "contact information" on the bottom of page 4 of the Federal OMB form, include the contact information for one or more of the following: DOR, the party's attorney, the state disbursement unit, and/or the clerk of the court's child support section. (The chief judge in each circuit has the authority to identify an appropriate person(s) in his/her circuit (or each county of his/her circuit) as the contact person available to answer questions from the employers.)
- Designate a person in each county to complete the withholding forms to ensure accuracy and uniformity. The chief judge in each circuit has the authority to designate a person in each county to complete the withholding forms. (Some circuits currently have agency attorneys or private attorneys complete the form and others have court staff complete the form.)

Helpful Federal Definitions (more definitions can be found on the federal IWO):

- **Remittance ID/Order identifier** - The remittance ID is the same number as the case number and should be noted on the Electronic Funds Transfer/Electronic Data Interchange (EFT/EDI) record. Employers must include this number when sending payments to the State Disbursement Unit. This ID number should be provided by the clerk and filled in by the court/court staff when the federal form is filed.
- **CSE Agency Case Identifier** - Sometimes, the Department of Revenue will use a unique identifier assigned to a State or Tribal CSE case. In a State CSE case, this is the identifier that is reported to the Federal case Registry (FCR), and is different from the court case number. For Tribes this would be either the FCR identifier or another applicable identifier. This number is provided by the Department of Revenue when necessary.
- **SDU** - State Disbursement Unit. This state office is responsible for receiving and distributing all payments and furnishing payment records to the parents and to the court. All orders that direct an employer to withhold payments must direct those payments to the SDU. §61.1301(1)(b)(8), Florida Statutes.